

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROSE THOMAS KENNEDY : CIVIL ACTION
: :
: :
v. : :
: :
CITY OF PHILADELPHIA, et al. : NO. 08-5933

ORDER

AND NOW, this 7th day of December, 2010, upon
consideration of defendants' motion for summary judgment (docket
entry # 25), plaintiff's response thereto (docket entry # 32),
defendants' motion to strike plaintiff's response (docket entry #
33), and plaintiff's response thereto (docket entry # 34), and
for the reasons articulated in the accompanying Memorandum, it is
hereby ORDERED that:

1. Defendants' motion to strike plaintiff's response
(docket entry # 33) is DENIED;

2. Defendants' motion for summary judgment (docket
entry # 25) is GRANTED IN PART and DENIED IN PART as follows;

3. As to Counts II and III of plaintiff's complaint,
the defendants' motion is GRANTED;

4. Defendants' motion for summary judgment as to
Count I is DENIED;

5. Defendants' motion for summary judgment as to
Count IV is DENIED WITHOUT PREJUDICE;

6. By January 28, 2011, defendants shall PRODUCE the police witnesses plaintiff wishes to depose in order to identify who allegedly hit her on December 28-29, 2006;

7. By February 11, 2011 plaintiff shall FILE her second amended complaint if she can do so conformably with Fed. R. Civ. P. 11 or by that date advise the Court that the discovery does not warrant the filing of an amended complaint; and

8. The Clerk of Court shall TRANSFER this case from our Active docket to our Civil Suspense docket pending plaintiff's filing or report as provided in the preceding paragraph.

BY THE COURT:

____\s\Stewart Dalzell